

On December 10, 2021, Plaintiff filed the Second Motion for Early Discovery. Doc. 8.

II. Discussion

In his Complaint, Plaintiff alleges that he was harassed, threatened, and assaulted at the North Carolina Walking Horse Championship Show. Doc. 1.

In his First Motion for Early Discovery, Plaintiff asserted that the North Carolina Walking Horse Championship Show was “videoed and recorded by Report TV, a part of Dabora, Inc., a non-party to this litigation.” Doc. 6 at 2. Plaintiff sought leave to conduct early discovery, by sending a subpoena to Dabora, Inc. for the “unedited raw video of ‘Youth 12-17 Championship’ class made on Saturday, October 9, 2021 by Report TV at the North Carolina Championship Horse Show....” and stated that without this discovery, “key portions of the video edited out or deleted and containing real time coverage of the assaults will be lost, damaged, or destroyed.” Id. at 3.

The undersigned denied the First Motion for Early Discovery without prejudice, explaining that Plaintiff had not provided any information regarding what attempts he had made to confirm that Dabora, Inc. had the information he sought, whether he had requested that Dabora, Inc. provide the information to him voluntarily or retain such information, or what the entity’s response had been to such a request. Doc. 7.

In the Second Motion for Early Discovery, Plaintiff contends that he corresponded with Dabora, Inc. regarding the video footage, and that Dabora, Inc. informed him that it did not have the requested footage. Doc. 8 at 3. Plaintiff further states that Dabora, Inc. directed Plaintiff to a videographer, Dean Johnson d/b/a Dean Johnson Video, and that Mr. Johnson “told Plaintiff he had the complete unedited raw footage” and “would produce the complete unedited raw footage...only if he received a subpoena compelling him to produce the complete unedited raw video.” Id. at 4.

The undersigned is not persuaded that early discovery is required in these circumstances. Plaintiff has apparently been able to locate the footage he seeks, but there has been no showing that the footage is in danger of being lost or deleted.

In addition, while summonses were issued on November 24, nothing appears in the record to indicate that Defendants have been served, and Defendants have not otherwise appeared.

In this context, and assuming the footage is as significant as Plaintiff believes, the undersigned is not convinced that it must be produced now. Rather, Defendants should be given notice of its potential production and an opportunity to receive it simultaneously from the videographer if they so choose.

IT IS THEREFORE ORDERED that Plaintiff's "Emergency Motion for Early-Enforceable Discovery from a Non-Party Prior to Fed. R. Civ. P. 26(a) Discovery Conference" (Doc. 8) is **DENIED**. This ruling, however, does not prohibit the parties, or some of them, from making a similar request for early production of the footage, after all Defendants have been served and otherwise have been given notice of this issue.

Signed: December 14, 2021

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

